

Notice of Allowability

Application No.

10/542,858

Examiner

Mark T. Le

Applicant(s)

HEINZE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the filing of the instant application.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Ira Schultz on September 25, 2007.

In the specification:

The following has been inserted before the first line of the specification:

-- This application is a 371 of PCT/EP04/02447, filed March 10, 2007. --.

In the claims:

The claims have been replaced by the followings:

- 1. **(currently amended) Grooved rail frog (10) including a frog intersection region (16) formed by intersecting grooves (12, 14) as an overrun region as well as two construction profiles (18, 20), extending in the longitudinal direction of the frog and being connected with each other, with [external] outer fishplate chambers (22, 24) with lining pieces (30, 32) arranged [therein] in the chambers, [which are] the lining pieces being connected non-positively with the construction profiles by means of at least one tightening element (34) [, such as screw bolts,] penetrating the lining pieces and the construction profiles [these], wherein the frog intersection point region comprises an interchangeable insert (36), which is arranged non-positively in a recess, wherein the recess**

accommodating the insert (36) is delimited by segments of the lining pieces (30, 32) arranged in the outer fishplate chambers (22, 24) of the construction profiles (18, 20), and wherein the insert is fixed in place in relation to the lining pieces.

2. (original) Grooved rail frog according to claim 1, wherein the insert (36) is delimited by the segments of the lining pieces (30, 32) as well as by segments of the construction profiles (18, 20), especially by bars of the construction profiles.

3. (currently amended) Grooved rail frog according to claim 2, wherein the insert (36) has outer surfaces (42, 44) running inclined toward [the] vertical, wherein at least one wedge element (38, 40) rests on each outer surface with a first surface (52, 54) corresponding to [the] a course of the outer surface, and wherein the wedge element is braced with a second surface (56, 58) running opposite to the first surface on one of the lining pieces (30, 32), respectively.

4. (currently amended) Grooved rail frog according to claim [2] 3, wherein the wedge element (38, 40) has a trapezoidal shape in section with larger base segments (60, 62) running on [the] a travel surface side.

5. (currently amended) Grooved rail frog according to claim [2] 3, wherein the wedge element (38, 40) is penetrated by a screw element (64, 66) [such as a hexagon cap screw], which can be tightened in relation to the lining piece (30, 32).

6. (original) Grooved rail frog according to claim 5, wherein the screw element (64, 66) is a hammer head screw or engages in a T-shaped tenon block (68, 70), which extends in a T-shaped groove (72, 74) running in the lining piece (30, 32).

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7. (currently amended) Grooved rail frog according to claim 1, wherein the lining piece (30, 32) has on [the] a side facing away from the insert a bar-like segment (80, 82) extending approximately to [the] a plane formed by [the] a travel surface of the frog (10), and wherein [the] an intermediate space (88, 90) between the bar-like segment and the insert (36) is covered.

8. (currently amended) Grooved rail frog according to claim 7, wherein the intermediate space (88, 90) containing [the] a wedge element (38, 40) is covered by a protective element or sheet (76, 78) that runs above the wedge element[s] and on [the] an outside [preferably] in [the] a plane formed by the travel surface of the frog (10).

9. (currently amended) Grooved rail frog according to claim 8, wherein the protective element (76, 78), which [preferably] tapers conically in [the] a direction of the intermediate space (88, 90), is sealed off against the lining piece (30, 32) [or] at its bar-like segment (80, 82) as well as the insert (36) [, for example by a rubber seal (92, 94)].

10. (original) Grooved rail frog according to claim 1, wherein the construction profiles (18, 20) run parallel or basically parallel to one another in the region of the insert (36).

11. (currently amended) Grooved rail frog according to claim 1, wherein the construction profiles (18, 20) running diverging in relation to one another outside the insert (36) are braced against one another by means of an intermediate

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element [such as wedge braces (96)] and are screwed together in a highly rigid manner by means of at least a second tightening element (98).

12. (original) Grooved rail frog according to claim 1, wherein the lining pieces (30, 32) are embedded in a form-locking manner in the outer fishplate chambers (22, 24) and screwed together in a highly rigid manner with the construction profiles (18, 20) with systematic prestressing.

13. (original) Grooved rail frog according to claim 1, wherein the insert (36) is arranged in a non-positive and form-locking manner in the recess delimited by the construction profiles (18, 20) and the lining pieces (30, 32).

14. (currently amended) Grooved rail frog according to claim 3, wherein the outer surfaces (42, 44) of the insert (38) running inclined toward [the] vertical have an incline between [in particular] 1:5 and 1:7 [, preferably 1:6]. --.

3. On September 24, 2007, the examiner called and indicated to Mr. Schultz that the instant claims were favorably considered; however, clarifications were needed to clearly define the instant claimed invention, and the examiner proposed the above changes. In response, Mr. Schultz accepted the examiner's proposed amendments as set forth above.

REASON FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance: European reference '830, Webster '802, Lepperd '866, Rost '298, Breed '630, Strong '698, Kuhn '408, Simmons '260, Vaughan '526, Psilander '701, and Dotter '441 show variations of

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inserts, and lining pieces that are connected together by tightening elements; however, the prior art of record taken alone or in combination does not suggest a grooved rail fog having the combination of features as recited in instant claim 1, wherein, the lining pieces are arranged in the outer fishplate chambers of the construction profiles, and define a recess that accommodates the interchangeable insert fixed relatively to the lining pieces. Accordingly, claim 1 along with claims 2-14 depending therefrom are considered as being defined over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark T. Le/
Mark Tuan Le
Primary Examiner
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9/25/07